

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 518

Introduced by Senator Migden

February 22, 2007

An act to add Article 1.5 (commencing with Section 224.70) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as amended, Migden. Juveniles: Youth Bill of Rights.

(1) Existing law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter. Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer, as specified, unless a petition to declare him or her a dependent child or ward of the court has been filed. Existing law requires the juvenile court, upon the appearance of a minor at a detention hearing, to inform the minor, and his or her parents or guardians, of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and their right to representation by counsel.

This bill would enact the "Youth Bill of Rights" in connection with children in the custody of the Department of Corrections, Division of Juvenile Facilities, or a local juvenile facility, as defined. The bill would

enumerate 15 specific rights. The bill would require each facility of the Division of Juvenile Facilities and each local juvenile facility to provide each child who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation of the rights, and would require a local juvenile facility to post a listing of the rights. The bill would require the Division of Juvenile Facilities and local juvenile facilities to provide care, placement, and services to children in their custody without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. The bill would require the Office of the Ombudspersons of the Division of Juvenile Justice to take various actions in connection with the rights, including disseminating information, investigating complaints, providing information regarding complaints it does not investigate, compiling data and making it available to the Legislature, and providing a toll-free telephone number. The bill would further require that office, in consultation with specified groups, to develop standardized, age-appropriate information in connection with these rights by July 1, 2008. The bill would require certain state and local employees to be trained on the right of a child in custody to have fair and equal access to all available services, placement, care, treatment, and benefits, as specified. The bill would require the Department of Corrections and Rehabilitation and the Corrections Standards Authority to adopt regulations to implement and monitor compliance with these provisions. The bill would require each facility of the Division of Juvenile Facilities and each local juvenile facility to adopt a policy prohibiting harassment and discrimination in conformance with these provisions. By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Wards in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and youth in local juvenile facilities are harmed by discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(b) Youth are placed in the custody of the Division of Juvenile Facilities in order to provide them an opportunity for rehabilitation. Rehabilitation opportunities include the provision of educational, therapeutic, and other necessary services to ensure that these youth can become successful and productive members of their communities.

(c) All children in juvenile facilities have the constitutional right to a safe and secure environment.

(d) The Division of Juvenile Facilities is committed to treating all people with dignity, respect, and consideration and demonstrating behavior which is fair, honest, and ethical.

(e) There is a need to inform youth in the custody of the Division of Juvenile Facilities and local juvenile facilities about their rights and train officers about their legal responsibilities.

(f) Initial and ongoing training for county juvenile correctional officers, state juvenile correctional officers and administrators, Corrections Standards Authority staff, and juvenile probation officers is crucial to enable all persons involved in providing care, rehabilitation, and treatment services to children in juvenile facilities to fulfill their responsibilities to provide safe and nondiscriminatory environments.

SEC. 2. Article 1.5 (commencing with Section 224.70) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 1.5. Youth Bill of Rights

224.70. For the purposes of this article:

(a) “Camp” means a juvenile camp, ranch, forestry camp, or boot camp established in accordance with Section 881 of the

1 Welfare and Institutions Code, to which minors made wards of
2 the court on the grounds of fitting the description in Section 602
3 of the Welfare and Institutions Code may be committed.

4 (b) “Child” means a person under 18 years of age, and includes
5 a person under 18 years of age whose case is under the jurisdiction
6 of the adult criminal court.

7 (c) “Committed” means placed in a jail or juvenile facility
8 pursuant to a court order for a specific period of time, independent
9 of, or in connection with, other sentencing alternatives.

10 (d) “Juvenile facility” means a juvenile hall, juvenile home,
11 ranch or camp, forestry camp, regional youth education facility,
12 boot camp, or special purpose juvenile hall.

13 (e) “Juvenile hall” means a county facility designed for the
14 reception and temporary care of minors detained in accordance
15 with the provisions of this chapter.

16 (f) “Regional facility” means a facility serving two or more
17 counties operated pursuant to a memorandum of understanding or
18 a joint powers agreement identifying the terms, conditions, rights,
19 responsibilities, and financial obligations of all parties.

20 (g) “Special purpose juvenile hall” means a county facility used
21 for the temporary confinement of a minor, not to exceed 96 hours,
22 prior to transfer to a full-service juvenile facility or release.

23 224.71. It is the policy of the state that all children in the
24 custody of the Department of Corrections and Rehabilitation,
25 Division of Juvenile Facilities, or in a local juvenile facility, shall
26 have the following rights:

27 (a) To live in a safe, healthy, and comfortable environment
28 where he or she is treated with respect.

29 (b) To be protected from physical, sexual, emotional, or other
30 abuse, or corporal punishment.

31 (c) To receive adequate and healthy food, water, and clothing
32 that is adequate and clean.

33 (d) To receive medical, dental, vision, and mental health
34 services.

35 (e) To be free of the administration of medication or chemical
36 substances, unless authorized by a physician.

37 (f) To contact family members, unless prohibited by court order,
38 and social workers, attorneys, court-appointed special advocates
39 (CASA), and probation officers.

1 (g) To have fair and equal access to all available services,
2 placement, care, treatment, and benefits, and to not be subjected
3 to discrimination or harassment on the basis of actual or perceived
4 race, ethnic group identification, ancestry, national origin, color,
5 religion, sex, sexual orientation, gender identity, mental or physical
6 disability, or HIV status.

7 (h) To be protected from punitive interference with the daily
8 functions of living, such as eating or sleeping.

9 (i) To contact legal counsel, ombudspersons, and other advocates
10 regarding violations of rights, to speak to representatives of this
11 office confidentially, and to be free from threats or punishment
12 for making complaints.

13 (j) To make and receive confidential telephone calls from
14 attorneys and send and receive unopened mail from attorneys.

15 (k) To participate in religious services and activities of his or
16 her choice.

17 (l) To not be denied food as a disciplinary measure.

18 (m) To be provided with sufficient personal hygiene items.

19 (n) To attend school classes.

20 (o) To attend all court hearings pertaining to them.

21 224.72. (a) Every Division of Juvenile Facilities facility and
22 local juvenile facility shall provide each child who is placed in the
23 facility with an age and developmentally appropriate orientation
24 that includes an explanation of the rights of the child, as specified
25 in Section 224.71, and that addresses the child's questions and
26 concerns.

27 (b) Every local juvenile facility shall post a listing of the rights
28 provided by Section 224.71. The Department of Corrections and
29 Rehabilitation, Office of the Ombudsman, shall design posters and
30 provide the posters to each Division of Juvenile Facilities facility
31 subject to this subdivision. The posters in facilities of the Division
32 of Juvenile Facilities shall include the toll-free telephone number
33 of the Office of the Ombudspersons of the Division of Juvenile
34 Justice.

35 224.73. (a) The Division of Juvenile Facilities shall ensure
36 the safety and dignity of youth committed to its care. The Division
37 of Juvenile Facilities shall provide care, placement, and services
38 to children in its custody without discriminating on the basis of
39 actual or perceived race, ethnic group identification, ancestry,

1 national origin, color, religion, sex, sexual orientation, gender
2 identity, mental or physical disability, or HIV status.

3 (b) Local juvenile facilities shall ensure the safety and dignity
4 of youth in its custody. Local juvenile facility administrators shall
5 provide care, placement, and services to children in the custody
6 of the facilities without discriminating on the basis of actual or
7 perceived race, ethnic group identification, ancestry, national
8 origin, color, religion, sex, sexual orientation, gender identity,
9 mental or physical disability, or HIV status.

10 224.74. (a) The Office of the Ombudspersons of the Division
11 of Juvenile Justice shall do all of the following:

12 (1) Disseminate information on the rights of children and youth
13 in the custody of the Division of Juvenile Facilities, as provided
14 in Section 224.71, and the services provided by the office.

15 (2) Investigate and attempt to resolve complaints made by or
16 on behalf of children in the custody of the Division of Juvenile
17 Facilities, related to their care, placement, or services.

18 (3) Decide, in its discretion, whether to investigate a complaint,
19 or refer complaints to another agency for investigation.

20 (4) Upon rendering a decision to investigate a complaint from
21 a complainant, notify the complainant of the intention to
22 investigate. If the office declines to investigate a complaint or
23 continue an investigation, the office shall notify the complainant
24 of the reason for the action of the office.

25 (5) Update the complainant on the progress of the investigation
26 and notify the complainant of the final outcome.

27 (6) Document the number, source, origin, location, and nature
28 of complaints.

29 (7) Compile and make available to the Legislature all data
30 collected over the course of the year including, but not limited to,
31 the number of contacts to the toll-free telephone number, the
32 number of complaints made, the number of investigations
33 performed by the office, the number of referrals made, and the
34 number of unresolved complaints.

35 (8) Provide a toll-free telephone number for the Office of the
36 Ombudspersons of the Division of Juvenile Justice.

37 (b) (1) The Office of the Ombudspersons of the Division of
38 Juvenile Justice, in consultation with the Chief Probation Officers
39 of California, youth advocate and support groups, and groups
40 representing children, families, children's facilities, and other

1 interested parties, shall develop, no later than July 1, 2008,
2 standardized information explaining the rights specified in Section
3 224.71. The information developed shall be age-appropriate.

4 (2) The Office of the Ombudspersons of the Division of Juvenile
5 Justice, the counties, and other interested parties may use the
6 information developed in paragraph (1) in carrying out their
7 responsibilities to inform youth of their rights provided under
8 Section 224.71.

9 224.75. ~~State~~ *All state* correctional officers, staff of the
10 Correctional Standards Authority, and county juvenile facility
11 workers *who have daily contact with wards* shall receive training
12 on the rights of a child in the custody of the Division of Juvenile
13 Facilities or in a local juvenile facility to have fair and equal access
14 to all available services, placement, care, treatment, and benefits,
15 and to not be subjected to discrimination or harassment on the
16 basis of actual or perceived race, ethnic group identification,
17 ancestry, national origin, color, religion, sex, sexual orientation,
18 gender identity, mental or physical disability, or HIV status.

19 224.76. (a) The Department of Corrections and Rehabilitation
20 ~~and the Corrections Standards Authority~~ shall adopt regulations
21 to implement and monitor compliance with this article.

22 (b) Each Division of Juvenile Facilities and local juvenile facility
23 shall adopt a policy prohibiting harassment and discrimination in
24 conformance with this article.

25 ~~SEC. 2.~~

26 SEC. 3. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.